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Fifty-second session

SUMMARY RECORD OF THE 1369th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 24 October 1994, at 3 p.m.

Chairman: Mr. ANDO

CONTENTS

Organizational and other matters (continued)

Fifth meeting of persons chairing the human rights treaty bodies

General comment on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant (continued)

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The meeting was called to order at 3.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Fifth meeting of persons chairing the human rights treaty bodies

1. The CHAIRMAN invited Mr. Dimitrijevic to make an oral report to the Committee on the proceedings of the fifth meeting of persons chairing the human rights treaty bodies, which he had recently attended.

2. Mr. DIMITRIJEVIC said that since the written report of the meeting, which have taken place in Geneva from 19 to 23 September 1994, was now available, although in English only, he would confine his comments to matters of immediate relevance to the Committee. The meeting, which had been very interesting, had been attended by representatives of all the treaty bodies, most being chairpersons, although vice-chairpersons, rapporteurs and ordinary members had also been present. Representatives of a number of major non-governmental organizations (NGOs) had also attended, had taken full advantage of their opportunity to address the meeting and had made useful proposals. The specialized agencies of the United Nations, in particular the International Labour Organisation (ILO), and other United Nations bodies such as the United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Refugees (UNHCR) had also sent representatives.

3. After an extensive debate, the meeting had adopted a number of conclusions and recommendations - some of general concern and some addressed to the United Nations - in particular, reiterating the need to give practical effect to the claim that human rights were a primary concern of the United Nations through increased allocations of funds and personnel. A number of further recommendations of direct relevance to the treaty bodies had also been adopted.

4. On the question of non-compliance with reporting requirements, the meeting had pointed out that such failure was a violation of international law. One recommendation referred to the assistance to be provided to States parties in reporting. Another was that, as a last resort, each treaty body should follow the practice already adopted by some committees of considering the situation in States parties whose reports were long overdue, in the absence of a report. The Committee's Working Group on article 40 had already drawn up some recommendations in that respect.

5. The meeting had noted that a somewhat chaotic redefinition of human rights standards was taking place within the United Nations at the same time as standards already set down in treaties were being disregarded - for example, in the preparatory process for the World Summit for Social Development.

6. Another important proposal concerned the need for the treaty bodies, and the United Nations in general, to be able to take preventive action when it was apparent that the situation in a given country was deteriorating to such an extent as to constitute a threat to national public order and international peace. The meeting had commended the Committee on its initiative in taking

action on such situations without waiting for reports to fall due. It had recommended that more should be done in that respect, including alerting, UNHCR, the Secretary-General and the competent organs of the United Nations, in particular the Security Council. It had been suggested that the most effective way of achieving that would be by a joint approach of several treaty bodies, or failing that by any treaty body which observed a situation deteriorating beyond repair.

7. The meeting had considered the question of reservations and recommended that the treaty bodies should be insistent in seeking explanations from States parties regarding the reasons for making and maintaining reservations to the relevant human rights treaties.

8. In the matter of successor States, which were currently common in eastern and central Europe and parts of Asia, the meeting had endorsed the Secretary-General's initiative to urge such States to accept treaty obligations entered into by the predecessor State as soon as possible. However, the meeting had been of the opinion that successor States were automatically bound by such obligations from the date of their independence without respect for such commitments depending on a declaration of confirmation on their part. The meeting had considered that, since the prime concern of such treaties was to protect the individual, there was a very strong presumption that all successor States were bound ab initio by such treaties.

9. The meeting had taken note of a number of proposals made by Mr. Alston, Chairperson of the Committee on Economic, Social and Cultural Rights, for reducing the reporting burden on States by simplifying the procedure, but had not had the time to discuss them in detail.

10. A strong appeal had been made for increased cooperation with the specialized agencies and other United Nations bodies. The complaint by the ILO that the Human Rights Committee had not kept up its original close cooperation with that organization was unfortunately justified. That relationship had still not been restored, despite the fact that the ILO had a number of bodies with functions similar to those of the Committee whose experience would be useful to it.

11. Another important subject had been how to enhance the role of NGOs in the work of the treaty bodies. It had been recommended that each treaty body should examine the possibility of modifying its working methods or amending its rules of procedure so as to enable NGOs to participate more fully in its activities, inter alia, by permitting them to make oral interventions, a practice some treaty bodies were already following. It was interesting to note that not all treaty bodies had the same experience with respect to NGOs. Some bodies had noted the pressure exerted by NGOs, while others had said they were not approached by such organizations although they would welcome their contribution. Unfortunately, some treaty bodies, such as CERD, which received very few communications from individuals, did not appear to be viewed as very relevant by some NGOs. While greater openness to input from NGOs was desirable, care was needed to ensure that such organizations, especially those operating at the national level, maintained the high standards expected of them.

12. There had been considerable criticism of public information activities. The United Nations Department of Public Information, whose representative had attended the meeting at its request, had been asked to publish at the end of each year as a separate volume a compilation of all concluding observations adopted during that year by treaty bodies. However, the Department had claimed that such action was not its responsibility but that of the Centre for Human Rights - a disappointing response.

13. In the current economic climate, funding problems were familiar to all; it was unfortunate that the treaty bodies did not have access to some funds that would enable them to take immediate action at their discretion, to organize a mission or to attend a meeting as necessary, without the need to follow the lengthy procedure involved in arranging such financing through the Centre for Human Rights. That facility would permit speedier action in emergencies and improve cooperation.

14. An acrimonious debate had taken place on computerization of the work of the treaty bodies. The amount of money, including some private donations from Japan and elsewhere, that had been spent on the exercise with little tangible result had been deplored. It was unacceptable that access had not yet been provided to existing data banks in universities and other institutions.

15. The meeting had taken up a suggestion by NGOs that States parties should be urged to translate, publish and disseminate the concluding observations on their reports. That suggestion had been prompted by the experience of the Conference on Security and Cooperation in Europe (CSCE), which had found that publication of the Helsinki Accord in the countries concerned had been extremely effective in creating public awareness of its provisions. Countries would have no difficulty in publishing the concluding observations, which were much shorter than their reports, in an official journal or in some other appropriate manner.

16. The CHAIRMAN announced that the Committee would have an opportunity to discuss the report of the meeting of persons chairing the human rights treaty bodies at a later stage.

General comment on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant (CCPR/C/52/CRP.1) (continued)

17. The CHAIRMAN invited the Committee to consider paragraphs 10 and 11 of document CCPR/C/52/CRP.1, which dealt with the First Optional Protocol.

18. Mrs. EVATT said that the last sentence of paragraph 10 implied that it would be contrary to the object and purpose of the First Optional Protocol to permit a State to reserve from the operation of that Protocol any of the rights it had undertaken to observe on ratifying the Covenant. However, there could be circumstances, albeit rare ones, that could be accepted as a bona fide reason for a State party not wishing a matter to be dealt with under the First Optional Protocol. For example, when a State party to the Protocol was also a party to an international treaty such as the European Convention on Human Rights, and was thus open to more than one international procedure in respect of a particular right, it might prefer one channel of accountability

to the other. Again, it was conceivable that in the case of a right recognized in the Constitution and the law of a State which was of a particularly sensitive nature, that State might prefer its own Constitutional Court to be the final arbiter. Accordingly, the Committee should consider whether the sentence in question was too categorical and whether a more cautious approach might not be preferable.

19. With regard to paragraph 11, she asked what were the Committee's views as to permitting a reservation on the broader aspects of the continuing effects of a breach. She would be prepared to accept such a reservation provided that it was sufficiently specific and made clear what was involved.

20. Mrs. CHANET said she did not consider the sixth sentence of paragraph 10, at least in its French version, to be sufficiently strong. The force of the English phrase "does not affect the State's duty" had not been adequately rendered in French. It was particularly important to stress that the Covenant and the Optional Protocol were separate international instruments, and a State could well seek to use the Optional Protocol to reserve its position with respect to a provision of the Covenant that it had originally accepted but had subsequently had doubts about. It had to be made quite clear that such action was unacceptable under international law.

21. Mr. DIMITRIJEVIC said that he would prefer to see no change in the language and reasoning of paragraph 10, which dealt admirably and forcefully with all the problems involved. The word "appear" in the last sentence, provided adequate coverage for any valid exceptions.

22. Perhaps the reference in the ninth sentence to a lack of confidence by the State that it was complying with its duty was out of place in a general comment. He could accept deletion of that sentence, in which case the following sentence should start with the words "By no means may the Committee be prevented from expressing ...".

23. The reference to ratione temporis in paragraph 11 was fully justified by the Committee's past practice. It had consistently maintained its competence to deal with events or acts with continuing effects. The paragraph should remain as it was, apart from minor drafting changes.

24. Mr. HERNDL said that, although he was basically in agreement with the ideas expressed in paragraphs 10 and 11, the matter of reservations to the First Optional Protocol should be approached with caution. Reservations made to date had tended to invoke ratione temporis or, in the case of contracting parties to the European Convention, to claim that matters which had been dealt with by the European bodies or another appropriate international organ were not open to consideration by the Committee. Perhaps it would be advisable not to place too much emphasis on the subject since that might prove counter-productive.

25. The last sentence of paragraph 10 was somewhat unclear; it would be preferable to refer explicitly to the First Optional Protocol so as to make it perfectly plain that it was reservations to that separate international instrument that were in question.

26. Mr. WENNERGREN drew attention to the sentence in paragraph 10 which read: "Accordingly, a reservation to an obligation of a State to respect and ensure a right contained in the Covenant, made for the first time under the First Optional Protocol, does not affect the State's duty to comply with its substantive obligation." He thought it highly unlikely that a situation would arise in which a State would make a reservation under the Optional Protocol and imagine that, by so doing, it could exempt itself from the application of the substantive rights under the Covenant.

27. In the next sentence, which read: "But such a reservation would operate to ensure that the State's compliance with that obligation may not be tested by the Committee", he would suggest the insertion of the phrase "in any individual case" between the words "tested" and "by".

28. The following sentence indicated that a reservation that sought to preclude the Committee's testing of certain rights would be "contrary to the object and purpose of the First Optional Protocol". He thought that statement was too strong, and would prefer to indicate merely that the Committee did not condone such reservations. It was not inconceivable that a State might have good reasons for not wanting its guaranteeing of political rights to be tested under the Optional Protocol.

29. Finally, he cited the second sentence of paragraph 11, which read: "The Committee must be master of its own procedures". That was something of an exaggeration, for the Committee was not entirely free to decide how to act: it was bound by the rules set out in the Optional Protocol.

30. Mr. EL SHAFEI asked for clarification of the reference in paragraph 10 to "a reservation to a substantive obligation made for the first time under the First Optional Protocol". What was meant by "for the first time"? Could a reservation be made more than once under the Optional Protocol? The following sentence began with the word "Alternatively", but he did not see any opposition between the two sentences that warranted the use of that word.

31. Mr. POCAR said he had difficulties with the wording of paragraph 11, because his views on competence ratione temporis did not coincide with those of the other members of the Committee. He had no wish to block the emerging consensus on the general comment, but did want to indicate that, in his opinion, a State should be allowed to make reservations as long as they covered procedural issues only. The Optional Protocol provided for a procedure enabling the Committee to monitor the implementation of obligations under the Covenant, but did not have any impact on the subjects verified by the Committee. Unless a reservation was made, the Committee's competence also embraced events that occurred before the entry into force of the Optional Protocol, provided they continued to take place after the entry into force of the Covenant.

32. It should be noted that the reservation made by Chile under the Optional Protocol did not correspond to the arguments put forward in paragraph 11. The reservation stated that the Committee's competence applied in respect of acts occurring after the entry into force of the Protocol and to any acts beginning after 11 March 1990. The Committee's jurisprudence, which considered that the

continuation of an act after the entry into force of the Protocol triggered the application of the Committee's competence, might not be adequate to deal with the Chilean reservation.

33. Mrs. EVATT suggested that the phrase in paragraph 10 that read: "a reservation that seeks to preclude this would be contrary to the object and purpose of the First Optional Protocol" should be revised to read "a reservation ... would appear to be contrary ...", in line with the formulation used in the final sentence ("Such reservations appear to be incompatible ...").

34. Mr. PRADO VALLEJO suggested that the phrase "procedural reservations" in the first sentence of paragraph 11 should be replaced by a more precise formulation: as it stood, it could be interpreted either very broadly or very narrowly. The reference in paragraph 10 to a reservation "made for the first time" should likewise be clarified.

35. Mr. NDIAYE suggested that the fourth sentence in paragraph 11 should be redrafted so as to refer to "establishing", not "reflecting", the Committee's competence ratione temporis.

36. Mrs. HIGGINS thanked members of the Committee for their extremely useful comments, all of which would be taken into account in redrafting the paragraphs concerned.

37. The reference to a reservation made "for the first time" under the First Optional Protocol had been included to cover cases like that of Germany, which had accepted article 26 of the Covenant but had reservations concerning the Committee's competence under the Optional Protocol. She would certainly try to improve the wording on that subject.

38. She acknowledged that the phrase "procedural reservations" lacked clarity, and would redraft it. It referred to such cases as those where States claimed they accepted the First Optional Protocol but were reluctant, for instance, to transmit material within the time-frame established by the Committee.

39. She thanked Mr. Pocar for drawing attention to the problem of the Chilean reservation, and admitted that she did not know how to resolve it. As the effect of the reservation was to enlarge, not reduce, the Committee's competence, the best course might be to make no comment on it until a case involving that reservation arose.

40. The CHAIRMAN, having called for comments on paragraph 12, noted that there were none forthcoming. He therefore invited the Committee to take up paragraphs 1-4, which explained that the Committee felt it necessary to put forward general comments on reservations by States parties in order to clarify the obligations incumbent on States which made such reservations.

41. Mrs. EVATT thought that paragraph 1 should explain the Committee's purposes more clearly. It should refer to the fact that a large number of reservations had been made and some affected specific rights under the

Covenant. It was important for all parties involved in the application of the Covenant to be aware of the full scope of the obligations of States that had made reservations.

42. Paragraph 2 should be combined with paragraph 4, because the two dealt with similar subjects. At the start of paragraph 3, the phrase "The Committee is of the view that" should be deleted, for the point raised in that sentence was not just the Committee's opinion but a fact. Similarly, in the penultimate sentence of the paragraph, the introductory phrase "The Committee believes that" should be deleted. She did not agree that reservations served a useful function "only" when they enabled States to adapt the Covenant to their specific situation. Reservations also enabled the number of ratifications overall to be increased and thus promoted the universality of the Covenant.

43. Mr. EL SHAFEI, referring to the penultimate sentence of paragraph 3, said it seemed to reverse the real relationship between the Covenant and domestic law. It was the "specific situation" of States that must be adapted to the Covenant, and not vice versa.

44. The CHAIRMAN, speaking as a member of the Committee, agreed with Mrs. Evatt that paragraphs 2 and 4 should be combined. He also agreed that in paragraph 1, it should be made clear that the Committee formulated general comments so as to enable it to do its duty under the Covenant properly: that it needed to establish, for individual States that had made reservations, the scope of their obligations under the Covenant and the Optional Protocol. He suggested the inclusion in paragraph 3 of a sentence indicating that reservations served the desirable purpose of enabling the greatest possible number of States to become parties to the Covenant. It might also be useful to include, somewhere in the introductory portion, a summary of the specific topics to be covered. Finally, it was important to make it clear that the system set up under the Covenant was intended to establish minimum standards for guaranteeing human rights and to furnish the means of implementing those standards.

45. Mr. HERNDL suggested that the words "The Committee is of the view that" at the beginning of paragraph 3 should be omitted so as to make it clear that the affirmation had objective value. Likewise, the fourth sentence in the same paragraph, beginning with the words "The Committee believes that reservations", should be redrafted to read: "This may be permissible only in order to enable individual States to bona fide, temporarily adapt their legislation in all details to the general provisions of the Covenant".

46. Mr. PRADO VALLEJO, referring to the third sentence of paragraph 3, said that the precise meaning of the words "minimum standards" and "at less than that minimum standard" was not sufficiently clear. The sentence should be redrafted in more concrete terms after further discussion. He agreed with the idea expressed in the last sentence of the same paragraph, but did not think that it went far enough; the effect of a reservation should be not only not to remove from States the incentive to improve laws and practices that they knew to be incompatible with basic international standards, but also not to affect the obligation of States to harmonize their internal legislation with international legislation. The point was, in his view, a crucial one.

47. Mr. WENNERGREN, referring to Mr. Herndl's suggestion concerning the penultimate sentence of paragraph 3, said that the purpose of paragraph 3 was, in his view, essentially descriptive and analytical. The question of what was and what was not permissible should be dealt with in a later part of the general comment.

48. Mrs. HIGGINS said that she had taken careful note of all the points raised and would endeavour to work them into the text. She agreed with Mr. Prado Vallejo that the statement concerning minimum standards in the third sentence of paragraph 3 should be made clearer. Mr. Herndl's suggestion with regard to the fourth sentence of the same paragraph went further than the Covenant itself; in her view, the desired purpose would be achieved simply by deleting the word "only" in the eighth line, in accordance with Mrs. Evatt's suggestion. As for the last sentence of paragraph 3, it would be recalled that the draft initially proposed had been the exact reverse of the text now under consideration, making the point that the effect of a reservation was, unfortunately, to remove from States the incentive to improve their laws and practices.

49. Mr. NDIAYE, referring to the second sentence of paragraph 3, wondered whether any useful purpose was served by specifying what was "in reality, not a reservation". In practice, the reverse of the situation envisaged in the sentence was often true, States tending to disguise a reservation as an interpretative declaration.

50. Mr. HERNDL said that he entirely agreed to the deletion of the word "only" from the penultimate sentence, and suggested that the sentence might read: "This may be permissible, in particular, in order to enable individual States ...".

51. Mr. DIMITRIJEVIC also agreed that the word "only" in the eighth line of paragraph 3 should be deleted. With regard to the last sentence, while agreeing that the existing wording was somewhat awkward and needed to be rephrased, he thought it important to make the point that the effect of a reservation should not be to permanently absolve the State concerned from making its laws and practices compatible with international standards. The Committee should make it clear that the effect of removing that incentive was, in its view, undesirable and that States were expected, notwithstanding any reservations they might make, to work towards improving their laws and practices.

52. Mrs. HIGGINS remarked that there seemed to be a genuine division of opinion in the Committee on that point. Unlike the previous speaker and some others, she believed that, in contrast to the European Convention on Human Rights, the Covenant deliberately refrained from saying that a State party making a reservation nevertheless had some obligation to bring its laws and practices on the point to which the reservation related into line with the Covenant. She wondered whether those members who held the opposite view might be prepared, on reflection, not to press it. Referring to Mr. Herndl's new suggestion in respect of the penultimate sentence of paragraph 3, she thought that it could be accommodated in a later paragraph of the general comment. As for Mr. Ndiaye's point concerning the second sentence, she could not agree

that the description of what did not in reality constitute a reservation was superfluous and should be omitted; the sentence could, however, be expanded to include some reference to interpretative declarations.

53. Mrs. EVATT, referring to the last sentence of paragraph 3, pointed out that the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights made it incumbent on all States to bring their laws into compliance with international human rights standards.

54. Mr. WENNERGREN remarked that the Vienna Declaration was recommendatory rather than binding in nature; it represented, as it were, the wishful thinking of the international community. There was, however, no reason why the Committee should not express its own wishful thinking in the concluding part of the general comment.

55. Mrs. CHANET said that she agreed with Mrs. Higgins. The Covenant itself did not oblige a State which made a reservation in respect of a particular provision to work towards bringing its laws and practices relating to that provision into line with international standards. The Committee's general comment could hardly go beyond the requirements of the basic text. With regard to the second sentence of paragraph 3, she recalled that the French Government, in explaining why it did not consider itself to be bound by the provisions of article 27 of the Covenant, had nevertheless refrained from entering a reservation. Situations of that kind should be taken into account in the general comment, and any suggestion that such conduct on the part of a State was deceitful or reprehensible should be avoided.

56. The CHAIRMAN invited members of the Committee to take up consideration of paragraphs 13, 14 and 15 of the draft.

57. Mrs. EVATT said that the first sentence of paragraph 13 needed to be made more precise; the words "to make determinations relating to reservations to human rights instruments" might, for example, be amended to read "to determine whether particular reservations to human rights instruments are permissible and effective". The rest of the paragraph was satisfactory, but she would be in favour of adding a final sentence emphasizing that the procedure brought into operation when a State objected to a reservation made by another State did not resolve the question as to whether the reservation was or was not permissible. Similarly, paragraph 14 could be slightly modified to indicate that, because of the occasional and sporadic nature of the objections raised, the question of compatibility with the Covenant could not be determined solely by asking whether a reservation had or had not met with objections. The only way to determine that question was by applying an objective legal principle. In paragraph 15, it was necessary to state very strongly and unambiguously that it was the role of the Committee to determine whether a specific reservation was compatible with the Covenant. As for the consequences of an unacceptable reservation, dealt with in the two last sentences of the paragraph, she would recommend adding the word "generally" or the words "in the vast majority of cases" before the word "severable" in the penultimate line in order to indicate that a situation in which the Covenant would not be in effect at all for a reserving party was likely to be exceptional.

58. Mr. BAN thought that the positions of paragraphs 13 and 15 should be reversed in order to make it clear from the outset that the Committee felt itself competent to address the question of acceptability of reservations. He did not consider it necessary or desirable to add any further arguments in support of that position.

59. Mr. WENNERGREN thought that the content of paragraphs 13 and 14 in their existing form was not entirely in keeping with the overall tenor of the general comment. One possible solution in his view would be to cite article 20, paragraph 1, of the Vienna Convention on the Law of Treaties. According to that article, a reservation expressly authorized by a treaty did not require any subsequent acceptance by the other contracting States unless the treaty so provided, as was the case with the Covenant. It would not prevent the Committee from deciding for itself whether or not a particular reservation was legitimate. The matter of the Committee's competence was dealt with in paragraph 8. Combining the contents of paragraph 8 with a statement reflecting the principles of article 20, paragraph 1, of the Vienna Convention in paragraph 15 would express all that needed to be said without any explicit reference to the implications for bilateral instruments.

60. Mr. NDIAYE, referring to the final part of paragraph 14 according to which "objections by States operate to indicate a deep disquiet with a reservation but do not have other legal consequences inter se", said that the text appeared to ignore the procedures existing under articles 41 and 42 of the Covenant, which made it clear that objections raised by States to reservations did indeed have legal consequences for those States which had made the appropriate declaration under the Covenant.

61. Mrs. CHANET agreed that it might be going too far to say that objections had no force other than the expression of disquiet; nevertheless, the real value of such objections was not always evident, as had been shown in the case of the objections expressed by European States to the United States reservation regarding the application of the death penalty to minors.

62. In general, she thought that paragraphs 13 and 14 should be made more concise, given that objections did not have the same scope when applied to human rights instruments as with other types of treaty. In particular, the references in those paragraphs to articles 20 and 21 of the Vienna Convention were of dubious value: that Convention was not of great relevance in the human rights field and was not universally regarded as a codification of customary law. While it was important wherever possible to avoid coming into conflict with the Convention, its limited applicability to human rights instruments meant that the Committee should not feel too constricted by its provisions.

63. Mr. EL SHAFEI, following up the point made by Mr. Ndiaye, noted that articles 41 and 42 of the Covenant would not operate at all if the Covenant did not imply mutual obligations between States parties. He suggested that the apparent difficulty might be resolved by combining the second and third sentences of paragraph 14 along the following lines: "Such treaties, and the Covenant specifically, are not only a web of inter-State exchanges of obligations, they also concern the endowment of individuals with rights."

64. Mr. POCAR said that, in his view, paragraphs 13-15 were very well balanced and generally satisfactory, but that paragraph 13 should be shortened. In general, he felt it was important not to unduly discourage States parties from making objections on the grounds that such objections had no real consequence, as paragraph 14 in its existing form implied. Indeed, a large number of such objections might well strengthen the Committee's case in deciding that a reservation was incompatible with the terms of the Covenant.

65. Mr. HERNDL said that paragraph 15, which set out the Committee's selective viewpoint concerning its competence, needed to be discussed separately. With regard to paragraphs 13 and 14, he suggested that explicit references to the Committee's views should be eliminated so as to enhance the objectivity of the analysis. For example, "The Committee finds it important to determine ..." should be changed to "The question arises ...". Similarly, the first sentence in paragraph 14 should be redrafted along the following lines: "The provisions of the Vienna Convention do not appear to address ...". As for the second sentence in paragraph 14, he agreed with the wording proposed by Mr. El Shafei. The final sentence in the paragraph beginning "In the view of the Committee" needed to be changed, for example, to "It is questionable whether ...", since it was for States parties themselves to decide how their objections were to be interpreted and what legal or other consequences a particular objection might have.

66. He agreed that the Committee should take care not to adopt any wording explicitly contradicting the Vienna Convention, but it should clearly express any doubt it might have regarding the applicability of that Convention to the problems of reservations with regard to human rights treaties.

67. Mr. PRADO VALLEJO said that paragraphs 13-15 were generally very well written, objective and concrete. He found himself generally in agreement with their content, but wished to propose a number of minor changes to the Spanish text of paragraph 14. In the second line, he would prefer what he thought was the more diplomatic wording "no son adecuados" to the existing wording "son inadecuados"; in the third sentence, the term "reconocimiento" was in his view preferable to "otorgación" when speaking of rights; and the following sentence should be rephrased to state that the operation of the classic rules in question "could not be applied to" the Covenant ("no puede ser aplicada al Pacto").

68. Another, more substantial point which he hoped would be considered was the wording of the section of paragraph 14 according to which the Covenant was not "a web of inter-State exchanges of obligations" but concerned "the endowment of individuals with rights". While broadly correct, it needed to be rephrased to reflect the fact that human rights instruments did not operate on the strict principle of reciprocity which applied elsewhere in international law; States, even if not signatories to a particular human rights instrument, were generally bound by its provisions by virtue of the fact that many of the basic principles of human rights were peremptory norms of international law, while others had the force of law because of the global awareness of human rights which had been created by the Universal Declaration of Human Rights and subsequent human rights instruments.

69. Mrs. HIGGINS thanked the members of the Committee for their constructive comments, almost all of which she would unhesitatingly take up when elaborating a final draft. However, there had been two particular proposals which gave her some pause. Firstly, the proposal to cite article 20, paragraph 1 of the Vienna Convention on the Law of Treaties, if accepted, would be an open invitation to States to make reservations and might thus defeat the purpose of the Covenant. Secondly, while she could go along with proposals to remove explicit references to the Committee's views from paragraphs 13 and 14, she pointed out that the Working Group had been instructed to include such references because that was the appropriate style. She would defer to Mr. Aguilar Urbina in the matter.

70. Mr. AGUILAR URBINA said that the members of the Working Group had thought it necessary to retain the references to the Committee in order to be consistent with the practice followed in previous general comments and to avoid giving the impression of putting forward ideas which had no definite source. He agreed with the changes to the Spanish text proposed by Mr. Prado Vallejo.

71. The CHAIRMAN, noting that the Committee had not yet completed its discussion of the general comment, invited members to submit any comments on the remaining paragraphs 16 and 17 to the Working Group in writing so as to allow it to produce a formal draft for adoption by the Committee before the end of the current session.

The meeting rose at 6 p.m.